

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

CHARLES “CHAD” CAIN, III

Plaintiff

v.

ALEDO INDEPENDENT SCHOOL
DISTRICT, FRED COLLIE and SUSAN
BOHN,

Defendants.

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CIVIL ACTION NO. 4:20-cv-00442-O

PLAINTIFF’S REQUEST FOR HEARING ON TEMPORARY INJUNCTION

Plaintiff Charles “Chad” Cain, III, files this Request for Hearing on Temporary Injunction and he shows:

Relief Requested

1. Plaintiff asks the Court to set a hearing on September 28, 2020 or on September 29, 2020 to consider Plaintiff’s request for a temporary injunction.

Basis for the Relief Requested

2. Plaintiff in this action requests equitable relief, including a temporary injunction requiring Defendants to lift the criminal trespass warning issued to Plaintiff on September 24, 2019 by Defendant Fred Collie.

3. As noted in the Declaration of Charles “Chad” Cain, III, Defendants have excluded Plaintiff from participating in his son’s education, Defendants have barred him from entering school district property and Defendants have prohibited Plaintiff from attending school events for nearly one year.

4. As Plaintiff’s son returned to school for the 2020-2021 academic year and he attends school

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in person, Plaintiff continues to suffer irreparable harm due to Defendants' illegal actions.

5. Plaintiff also shows he will soon deploy overseas with the United States Air Force and he will be prevented from participating in his son's education before he departs, which will cause him further irreparable harm, if the criminal trespass warning is not lifted.

6. Plaintiff cannot quantify the harm he will suffer if the illegal trespass warning is not lifted.

7. Plaintiff seeks to complete depositions of Defendants currently noticed on September 21, 2020 and September 22, 2020 to obtain necessary evidence for a temporary injunction hearing.

8. Plaintiff is willing and able to present himself for deposition taken by Defendants on September 23, 2020, before any temporary injunction hearing that is requested on September 28, 2020 or on September 29, 2020.

9. Plaintiff first requested a hearing on his request for temporary injunction when he filed this lawsuit in state court on October 2, 2019.

10. A hearing on Plaintiff's request for temporary injunction was set for October 28, 2019 in state court, but due to jurisdictional issues and immunity issues raised by Defendants, the state court never held a hearing at which Plaintiff's request for temporary injunction was actually considered.

11. After Plaintiff deploys on active duty with the U.S. Air Force, he will be largely unable to participate in the prosecution of this action and he will not be able to participate at a hearing on his request for temporary injunction.

12. Plaintiff expects to mitigate some damages if he is permitted to attend his son's football games on September 29, 2020, October 6, 2020, October 13, 2020 and October 20, 2020, which is one reason he asks the Court to set a hearing on September 28, 2020 or on September 29, 2020.

13. Plaintiff has undertaken a continuous effort to obtain discovery for the past 11 and ½ months to develop necessary evidence to show his entitlement to injunctive relief.

14. After Aledo ISD closed its schools in March 2020 due to the Covid-19 pandemic, Plaintiff's son did not attend school in-person and Plaintiff was deployed on active duty with the Air Force in Texas to aid Covid-19 relief efforts from April 2020 through late June 2020.

15. While Plaintiff's son stayed home in the Spring and Summer of 2020 and as Plaintiff was deployed for military service, the irreparable harm Plaintiff's continues to suffer was not imminent.

16. This lawsuit was removed from state court in early May 2020, a discovery stay was ordered by the Court on June 24, 2020 and Plaintiff could not get discovery needed to prove his claims.

17. Now that Plaintiff's son is back in school, before Plaintiff must again deploy on his military assignment, this time overseas, and as he is able to obtain discovery with the lifting of the discovery stay, Plaintiff shows the time is ripe for the Court to allow him the opportunity to seek injunctive relief by a hearing before the Court.

Conclusion

18. Plaintiff asks the Court to set a hearing on September 28, 2020 or on September 29, 2020 to consider Plaintiff's request for a temporary injunction.

Certificate of Conference

19. In the Joint Status Report (Doc. 17) filed on June 4, 2020, Plaintiff notified Defendants and the Court he would "seek temporary injunctive relief in advance of the 2020 - 2021 academic year".

20. The discovery stay entered on June 24, 2020 (Doc. 20), around the time Plaintiff returned from his earlier active duty deployment, delayed the planned submission of this request.

21. At the September 14, 2020 meeting of counsel, held in accordance with the Court's September 12, 2020 Order (Doc. 40), I conferred with Bridget Robinson, counsel for Defendants, about Plaintiff's request for a temporary injunction hearing. Ms. Robinson advised that without a copy of any motion containing a request for hearing, she could not consider the request, nor state Defendants' position on this request for a hearing.

22. On September 16, 2020 at 4:05 pm, I sent a draft of this request to Defendants' counsel.

23. On September 16, 2020 at 4:55 pm, I called Bridget Robinson to ask for Defendants' position on this request. Because I was unable to speak with counsel, I left a message.

24. On September 16, 2020 at 5:30 pm, I spoke with Ms. Robinson and she advised that she is opposed to the Court setting a hearing on the temporary injunction request because she opposes the request for an expedited hearing; the dates requested for the hearing are before the time she would be required to respond to a motion under the FEDERAL RULES OF CIVIL PROCEDURE; she is opposed to being required to file an expedited response to the request; she has conflicts on the dates requested for the hearing; she does not know if a representative of Defendant Aledo ISD can attend on the requested dates; she does not know if witnesses can be present if the hearing is held on either of the requested dates; and she does not know if any of the three (3) other lawyers from her firm who are on "her team"¹ would be available to attend the hearing. As Defendants' are opposed to the relief requested, the Court should consider this as an opposed request.

Certified on September 17, 2020 by William J. Dunleavy

¹Bridget Robinson, Meredith Prykryl Walker and Joey Moore are all lawyers who have appeared for Defendants in this action. Jennifer Childress is a lawyer at the Walsh Gallegos firm who is receiving notices in this case through the Court's ECF system and Ms. Robinson has requested that Plaintiff's counsel copy on Ms. Childress on case correspondence.

WHEREFORE, Plaintiff Charles “Chad” Cain, III prays that this Motion be granted in all things, that the Court grant the requested extension of deadlines and that Plaintiff have such other and further relief to which he shows himself to be justly entitled.

Respectfully submitted,

LAW OFFICES OF WILLIAM J. DUNLEAVY

s/ William J. Dunleavy

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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF FILING AND SERVICE

I certify on September 17, 2020, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court Northern District of Texas, using the electronic case filing system of the court. The electronic filing system sent a “Notice of Electronic Filing” to attorneys of record, including Defendants’ counsel, Bridget Robinson, at <brobinson@wabsa.com> who have consented to accept this notice as service of this pleading by electronic means.

s/ William J. Dunleavy

William J. Dunleavy